

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTIAN BAEZ, individually, and
on behalf of all others similarly
situated,

Plaintiffs,

v.

HARVARD MAINTENANCE, INC.,

Defendant.

Civ. A. No. 1:22-cv-12199

NOTICE OF REMOVAL

Pursuant to Sections 1332, 1441, and 1446 of Title 28 of the United States Code, Defendant Harvard Maintenance, Inc. hereby notices its removal of this action, which Plaintiff commenced against it in the Superior Court for the Commonwealth of Massachusetts, Norfolk County, captioned *Christian Baez, et al. v. Harvard Maintenance, Inc.*, Civil Docket No. 2082-cv-01048 (the “State Court Action”), to the United States District Court for the District of Massachusetts. The grounds for removal are as follows:

1. Defendant Harvard Maintenance, Inc. has attached hereto as Exhibit A copies of the Summons, Civil Action Cover Sheet, and Complaint, which constitutes all process, pleadings, and orders that Defendant received or of which it is aware. *See* 28 U.S.C. § 1446(a).
2. This Court has subject matter jurisdiction over this action because this is a civil action in which complete diversity of citizenship exists between Plaintiff and

Defendant, and the amount in controversy exceeds \$75,000, exclusive of interests and costs. *See 28 U.S.C. § 1332(a).*

3. This Court is the District Court of the United States for the district embracing the place where the State Court Action is pending and, accordingly, is the appropriate court for removal. *See 28 U.S.C. § 1441(a).*

4. According to his Complaint, and upon information and belief, Plaintiff is a citizen of the Commonwealth of Massachusetts, domiciled in Quincy, Massachusetts.

5. Defendant Harvard Maintenance, Inc. is a New York corporation with a principal place of business in Miami, Florida.

6. Diversity of citizenship existed between the parties at the time Plaintiff filed his Complaint and continues to exist to date.

7. In his Complaint, Plaintiff claims that Defendant violated chapter 149, §§ 148, 148B, and 150, and chapter 151 §§ 1, 1A, and 1B of the Massachusetts General Laws by allegedly misclassifying Plaintiff as an independent contractor and allegedly failing to pay Plaintiff minimum wage and overtime. Plaintiff claims he is entitled to \$100,000 as a result of the alleged “fail[ure] pay proper wages” *See Ex. A, State Court Civil Action Cover Sheet.*

8. Plaintiff’s attorney’s fees are also counted towards the amount-in-controversy requirement because an award of attorneys’ fees is mandatory under M.G.L. c. 149, § 148 should Plaintiff prevail on his claims. *See, e.g., Spielman v. Genzyme Corp., 251 F.3d 1, 7 (1st Cir. 2001).* This includes a reasonable estimate of

fees not yet incurred, but likely to be incurred through the duration of the litigation.

See Youtsey v. Avibank Mfg., Inc., 734 F. Supp. 2d 230, 238 (D. Mass. 2010).

9. Accordingly, this matter clearly satisfies the “amount in controversy” requirement in diversity of citizenship matters, as if Plaintiff’s damages are as claimed, the total would equal \$100,000, before any attorneys’ fees are considered. *See* 28 U.S.C. § 1332(a).

10. Defendant Harvard Maintenance, Inc. will file a copy of this Notice of Removal in the State Court Action. *See* 28 U.S.C. § 1446(d).

11. Defendant will file a certified or attested copy of all records and proceedings and all docket entries filed in the State Court Action within 28 days. *See* Loc. R. Civ. P. 81.1.

12. By filing this Notice of Removal, Defendant does not waive any defenses available to it.

WHEREFORE, Defendant Harvard Maintenance, Inc. respectfully requests that this matter proceed as an action properly removed to the United States District Court for the District of Massachusetts from the Superior Court of the Commonwealth of Massachusetts, Norfolk County.

Respectfully submitted,

HARVARD MAINTENANCE, INC.,

/s/ Joshua D. Nadreau

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Its Attorney

Dated: December 26, 2022

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed to the following counsel of record and parties of interest on this date.

James W. Simpson, Jr., Esq.
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Jwsimpson11@verizon.net

Dated: December 26, 2022

/s/ Joshua D. Nadreau

Joshua D. Nadreau